



**CODE 6714-01**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064-0092; -0149 & -0182)**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. On May 17, 2017, the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

**DATES:** Comments must be submitted on or before **[INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.
- Email: comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- Mail: Manny Cabeza (202-898-3767), Counsel, MB-3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Manny Cabeza, (202-898-3767), Counsel, MB-3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

Proposal to renew the following currently approved collections of information

1. Title: Community Reinvestment Act.

OMB Number: 3064-0092.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Source and Type of Burden	Description	Estimated Number of Respondents	Average Estimated Time per Response	Total Estimated Annual Burden
345.25(b) Reporting	<u>Request for designation as a wholesale or limited purpose bank</u> – Banks requesting this designation shall file a request in writing with the FDIC at least 3 months prior to the proposed effective date of the designation	1	4	4
345.27 Reporting	<u>Strategic plan</u> – Applies to banks electing to submit strategic plans to the FDIC for approval.	7	400	2,800
345.42(b)(1) Reporting	<u>Small business/small farm loan data</u> – <b>Large banks</b> shall and <b>Small banks</b> may report annually in machine readable form the aggregate number and amount of certain loans.	393*	8	3,144
345.42(b)(2) Reporting	<u>Community development loan data</u> – <b>Large banks</b> shall and <b>Small banks</b> may report annually, in machine readable form, the aggregate number and aggregate amount of community development loans originated or purchased.	393*	13	5,109
345.42(b)(3) Reporting	<u>Home mortgage loans</u> – <b>Large banks</b> , if subject to reporting under part 203 (Home Mortgage Disclosure (HMDA)), shall, and <b>Small banks</b> may report the location of each home mortgage loan application, origination, or purchase outside the MSA in which the bank has a home/branch office.	393*	253	99,429
345.42(d) Reporting	<u>Data on affiliate lending</u> – Banks that elect to have the FDIC consider loans by an affiliate, for purposes of the	200	38	7,600

\* The number of Large Banks reporting decreased from 253 to 243. However, 150 Small Banks are voluntarily collecting and reporting data, and the number of respondents has been adjusted to reflect this.

	lending or community development test or an approved strategic plan, shall collect, maintain and report the data that the bank would have collected, maintained, and reported pursuant to §345.42(a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under HMDA.			
345.42(e) <i>Reporting</i>	<u>Data on lending by a consortium or a third party</u> – Banks that elect to have the FDIC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under §345.42(b)(2) had the loans been originated or purchased by the bank.	75	17	1,275
345.42(g) <i>Reporting</i>	<u>Assessment area data</u> – <b>Large banks</b> shall and <b>Small banks</b> may collect and report to the FDIC a list for each assessment area showing the geographies within the area.	393*	2	786
TOTAL REPORTING				<b>120,147</b>
345.42(a) <i>Recordkeeping</i>	<u>Small business/small farm loan register</u> – <b>Large banks</b> shall and <b>Small banks</b> may collect and maintain certain data in machine-readable form.	393*	219	86,067
345.42(c) <i>Recordkeeping</i>	<u>Optional consumer loan data</u> – <b>All banks</b> may collect and maintain in machine readable form certain data for consumer loans originated or purchased by a bank for consideration under the lending test.	75	326	24,450
345.42(c)(2) <i>Recordkeeping</i>	<u>Other loan data</u> – <b>All banks</b> optionally may provide other information concerning their lending performance, including additional loan distribution data.	100	25	2,500

Total Recordkeeping				<b>113,017</b>
345.41(a) 345.43(a); (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6); (a)(7); (b)(1); (b)(2); (b)(3); (b)(4); (b)(5); (c); (d) <i>Disclosure</i>	<u>Content and availability of public file</u> – <b>All banks</b> shall maintain a public file that contains certain required information.	3,971	10	39,710
Total Disclosure				<b>39,710</b>
Total Estimated Annual Burden				<b>272,874 hours</b>

General Description of Collection: The Community Reinvestment Act regulation requires the FDIC to assess the record of banks and thrifts in helping meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations; and to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.

There is no change in the method or substance of the collection. The overall increase in burden hours is a result of an increase in the number of Small Banks electing to voluntarily respond in certain categories. The increase is also, in small part, due to an adjustment in the agency's estimate of the time required to submit strategic plan applications from 275 hours per respondent to 400 hours per respondent.

2. Title: Affiliate Marketing Consumer Opt-Out Notices.

OMB Number: 3064-0149.

Form Number: None.

Affected Public: Insured state nonmember banks, state savings associations that have affiliates and consumers that have a relationship with the foregoing.

Burden Estimate:

Type of Burden	Estimated Number of Respondents	Estimated Time per Response	Frequency of Response	Total Estimated Annual Burden
Implementation	8 <sup>1</sup>	18 hours	1	144
Ongoing	990 <sup>2</sup>	2 hours	1	1,980
Consumer Opt-Out	857,027 <sup>3</sup>	5 minutes	1	71,419
Total Estimated Annual Burden				73,543 hours

General Description of Collection: Section 214 of the FACT Act requires financial institutions that wish to share information about consumers with their affiliates, to inform such consumers that they have the opportunity to opt out of such marketing solicitations. The disclosure notices and consumer responses thereto comprise the elements of this collection of information.

There is no change in the method or substance of this information collection.

There has been a net increase in the estimated total annual burden primarily because of an upward adjustment in the agency's estimate of the number of

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<sup>1</sup> According to data from the Federal Reserve's National Information Center (NIC), there were 3,063 FDIC supervised institutions with an affiliate as of March 31<sup>st</sup>, 2017. This is an increase of 23 institutions from March 31<sup>st</sup>, 2014, which had 3,040 institutions with affiliates. Based on the research and NIC data, it is reasonable to estimate that the population of institutions with affiliates will continue to grow by approximately 23 institutions over the next three years. Thus, FDIC anticipates approximately 8 institutions per year will have an implementation burden.

<sup>2</sup> The number of respondents facing ongoing burden remains unchanged at 990.

<sup>3</sup> The FDIC estimates that 95.4% of the 990 banks impacted by this information collection are community banks having an average of 12,098 consumers and the remaining 4.6% are non-community (larger) banks having an average of 124,745 consumers. The FDIC estimates that 5% of the 17,140,540 estimated consumers at these 990 institutions (857,027 consumers) elect to Opt-Out of affiliate marketing information sharing.

consumers at FDIC-supervised institutions that elect to opt-out of affiliate marketing information sharing. The increase in burden due to the adjustment in the estimated number of consumers affected was offset by the fact that most banks have completed the implementation phase of the information collection; the estimated ongoing time per response for most affected institutions decreasing from 18 hours at implementation to 2 hours ongoing.

3. Title: Retail Foreign Exchange Transactions.

OMB Number: 3064-0182.

Form Number: None.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Type of Burden	Number of Respondents	Estimated Time per Response	Frequency of Response	Total Estimated Annual Burden
Reporting	1	16	On Occasion	16 hours
Recordkeeping	1	166	On Occasion	166 hours
Disclosure	1	1,332	On Occasion	1,332 hours
Total Estimated Annual Burden				1,514 hours

General Description of Collection: This information collection implements section 742(c)(2) of the Dodd-Frank Act (7 U.S.C. § 2(c)(2)(E) and FDIC regulations governing retail foreign exchange transactions as set forth at 12 CFR part 349, Subpart B. The regulation allows banking organizations under FDIC supervision to engage in off-exchange transactions in foreign currency with retail

customers provided they comply with various reporting, recordkeeping and third-party disclosure requirements specified in the rule. If an institution elects to conduct such transactions, compliance with the information collection is mandatory.

Reporting Requirements - Part 349, subpart B requires that, prior to initiating a retail foreign exchange business; a banking institution must provide the FDIC with a notice certifying that the institution has written policies and procedures, and risk measurement and management systems and controls in place to ensure that retail foreign exchange transactions are conducted in a safe and sound manner. The institution must also provide information about it intends to manage customer due diligence, new product approvals and haircuts applied to noncash margin.

Recordkeeping Requirements - Part 349 subpart B requires that institutions engaging in retail foreign exchange transactions keep full, complete and systematic records of account, financial ledger, transaction, memorandum orders and post execution allocations of bunched orders. In addition, institutions are required to maintain records regarding their ratio of profitable accounts, possible violations of law, records of noncash margin and monthly statements and confirmations issued.

Disclosure Requirements - The regulation requires that, before opening an account that will engage in retail foreign exchange transactions, a banking institution must obtain from each retail foreign exchange customer an acknowledgement of receipt and understanding of a written disclosure specified in



the rule and of disclosures about the banking institution's fees and other charges and of its profitable accounts ratio. The institution must also provide monthly statements to each retail foreign exchange customer and must send confirmation statements following every transaction. The customer dispute resolution provisions of the regulation require certain endorsements, acknowledgements and signature language as well as the timely provision of a list of persons qualified to handle a customer's request for arbitration.

There is no change in the method or substance of the collection. At present no FDIC-supervised institution is engaging in activities that would make them subject to the information collection requirements. FDIC originally estimated that 3 institutions would be impacted by the rule. The agency is reducing the estimated number of respondents to one (1) as a placeholder in case an institution elects to engage in covered activities in the future. There has been no change in the frequency of response or in the estimated number of hours required to respond. Because of the reduction in the estimated number of respondents from three (3) to one (1), the estimated annual burden has decreased.

#### Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through

the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 21st day of July, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017-15711 Filed: 7/26/2017 8:45 am; Publication Date: 7/27/2017]